

THE SUPREME COURT

Lower Court Affirmed in Three Appeal Cases.

TWO WERE DAMAGE SUITS

HEAVY JUDGMENTS AGAINST SHORT LINE RAILWAY CO.

Building and Loan Case Disposed Of - Morris Bribery Trial Now Set For Dec. 14 - Judge Norrell Considers Himself Disqualified From Hearing It - District Court Orders.

Three opinions were yesterday handed down by the supreme court, all affirming judgments of the district court. The cases are Williams vs. Oregon Short Line Railway company, appellants; Margaret Kennedy vs. same defendants, appellants; the People's Building, Loan & Savings association, appellants.

In the case of Jonathan A. Williams vs. the Oregon Short Line railroad company, appellants, the opinion was written by Justice Miner and concurred in by Chief Justice Zane and Justice Barton. The suit arose out of the railroad accident at Malad Bridge, Idaho. The plaintiff was a brakeman employed by the company and was being conveyed on a pass from Pocatello station to Glenn's Ferry, where he was to work. In the accident, by which the train was derailed, the plaintiff was severely injured and received a verdict and judgment in the lower court for \$5,500. The defendant's ground for appeal was that the plaintiff was traveling on a pass and had signed the agreement on the back of the pass, waiving all rights in case of accident and that he had paid nothing for the pass, and received it without consideration.

The court, however, held that the company, notwithstanding the agreement on the back of the pass, could not escape liability for its negligence. In regard to this point the opinion says "that a common carrier cannot stipulate for exemption from responsibility, when such exemption is not just and reasonable in the eye of the law; that it is not just and reasonable in the eye of the law for the common carrier to stipulate for exemption from responsibility for the negligence of the master or his servants; that these rules apply both to carriers of goods and carriers of passengers and with special force to the latter; that where a person agrees with a carrier to enter its employment at a certain place in the future and in consideration of the mutual interests of both, a free pass is given to the place of employment with conditions on the back rendering the carrier non-liable for injuries caused by its negligence, or that of its agents, and in traveling on the defendant's road to the place of employment the person is injured by the negligence of the carrier's agents, such person should be regarded as a passenger for hire and not an employee and the carrier is liable for damages caused the passenger for its negligence."

Accordingly the trial court was affirmed. Kennedy vs. O. S. L. Railway. Margaret Kennedy et al. vs. the Oregon Short Line Railroad company, appellants; opinion by Justice Miner, concurred in by Chief Justice Zane and Justice Barton. Patrick Kennedy was a passenger on

the same train as Williams. His widow and children sued for \$30,000 damages. The jury found for the plaintiff in the sum of \$3,685. Counsel for plaintiff made a motion for a new trial based upon statutory grounds and a claim of excessive damages. Judge Rolapp overruled the motion, as found for the defendants, were excessive and said he would grant a new trial unless the plaintiffs would agree to a reduction of \$2,000. Plaintiffs consented to the reduction, whereupon Judge Rolapp overruled the motion for a new trial, and a judgment was entered for \$7,685. Counsel for the defendant company still contended that the damages were excessive and that the judgment was "not based on a verdict of a trial by jury." The supreme tribunal, however, affirmed the district court's judgment.

MORRIS BRIBERY CASE.

The Trial Now Set For December 14 Next.

The trial of the bribery case against ex-Secretary Joseph B. Morris, which has been pending for so long, and which has been postponed several times, was yesterday set by Judge Norrell for Dec. 14 next.

Judge Norrell, however, will not sit in the case, as he is disqualified from the fact that when Morris was first arrested he applied to Judge Norrell, who was not then on the bench, to become a surety on his bond.

Building and Loan Case.

The People's Building, Loan & Savings association and H. L. Groesbeck, appellants, vs. Otis E. Fowle et al.; opinion by Justice Barton concurred in by Chief Justice Zane and Justice Miner.

The action was brought to foreclose a trust deed on property in Ogden. Judgment and decree was entered in the lower court for the plaintiff for \$1,800. In rendering the judgment the court refused to credit the defendants with certain monthly payments of premium, amounting to \$612.50, having regarded them as belonging to the association, and as not received in extinguishment of the debt. The case came up to the supreme court, where it was decreed that the \$612.50 should be credited on the principal sum borrowed. While the case was pending the property had been sold, and when the remittitur of the supreme court was sent down the lower court set aside its former judgment and entered a new one, and denied the motion of the plaintiff to set aside the sale, and from that order denying the motion to set aside the sale the appeal was taken, with the result that the action of the trial court was affirmed.

Short Orders.

Thomas W. Jennings vs. O. P. Pratt et al.; motion for a new trial overruled. In re receivership of the Pennsylvania Smelter company an order was made permitting the receiver to transfer the bank account from McCormick & Co.'s to Wells, Fargo & Co.'s, and releasing old bondsmen of receiver, and approving new bond.

Henry W. Green et al. vs. John A. Groesbeck; judgment for plaintiff by default for \$6,125.75 and costs.

T. P. Lewis, sheriff, vs. Margaret A. Caline; order entered making Salt Lake county party defendant.

F. E. Greig & Co. vs. H. Groesbeck et al.; judgment entered for the plaintiff for \$1,975 and \$91.25 costs.

Sears & Jeremy company vs. Utah National bank; demurrer argued and submitted. S. J. C. M. Manufacturing company vs. Z. C. M. L.; ten days' additional time given plaintiff to amend complaint. Calvin E. Barker et al. vs. Pacific Express company; motion to dismiss appeal argued and submitted. Betty Anderson vs. F. C. Thompson; same order. T. M. Thompson vs. George M. Can-

ON THE CATTLE RANGE.

Methods of Handling the Big Herds in Arizona. Prescott Correspondence San Francisco Chronicle: The men who contended that the demand for cattle in 1897 was only a fitful gleam of prosperity have had nothing to say in 1898, when activity on the ranges continued, and the cattlemen have now the best and most reliable market in 12 years. The rise in the value of horned cattle in the last 13 months has been worth about \$3,400,000 to Arizona alone, and the value of the ranges (now that three successive seasons of rains have made them abundant) has advanced several millions of dollars more. Several hundred Arizona ranges, practically abandoned by discouraged and impoverished cattlemen in a previous decade of ruin and disaster in cattle raising have restocked and rehabilitated during the last year. The great cattle companies of Arizona, that have several hundred thousand dollars each invested in the industry, have expended large capital enlarging their herds and made wholesale improvements in the ranges. Once more these are picturesque and lively scenes in all the cattle towns in the territory. The principal cattle shipping stations, such as Holbrook, Flagstaff, Williams, Ash Fork, on the line of the Santa Fe railroad, have been up to their eyes in business all the past summer. From every part of the land of the great cow country the reports of the grass, big prices for cattle and a revival of the old glories of cow-punching of the '80's. Two years ago this month the best grades of Arizona cattle were offered at \$8 to \$10 a head. They had been sold as low as \$6 a head. Now the same grades of cattle are selling at \$24.

Probate Orders.

Estate of Charles G. Lange, deceased; John Hill, Jr., appointed executor without bond.

Estate of Nathan Sears, deceased; order of final distribution made.

Estate of John J. Devlin, deceased; Estate of Emma E. Faust, deceased; H. J. Faust, Jr., appointed administrator under \$1,500 bond.

Estate of John J. Devlin, deceased; Benjamin Blake appointed administrator and bond fixed at \$1,500.

Indians. Even the piles of horns after dehorning operations are over, are collected and made a source of revenue.

The best staggers to its feet and runs madly away. Once in a while a fractious nervous cow will die from the loss of blood and the shock. The time spent in dehorning is not over ten minutes. A range of five men will dehorn 250 cattle in a day. Carload lots of cattle horns are shipped from New Mexico and Arizona frequently. Button, glue, comb and brush factories are the main buyers of cattle horns. The shippers pay the cattlemen from 2 to 2 1/2 cents a pound for them, "free on board."

Nowadays, also, the branding on a well-regulated cattle ranch is done systematically, and with improved inventions. The picturesque scenes that formerly characterized a rodeo and branding have been supplanted by practical contrivances for saving time and doing a neat job. The old-fashioned vaqueros and cowboys used to spend days and weeks every year in ranging over hill and vale through canyons in search of cattle. The cows, steers and calves were leisurely bunched on a certain day and finally driven in a herd into the open, as the master lariat-throwers roped the cattle one after another and dexterously held them while the branders would apply the hot iron. It took weeks to brand an ordinary-sized herd. The apprentice cowboys looked on with admiration. The cowboys on a modern ranch must keep close track of their cattle. The cows are not given so wide a range as in former years, when land was free and cattlemen were fewer. None are allowed to go wandering miles away, where the mavericks may be branded and claimed by a competing cattelman.

Nowadays outfits of a dozen or two men on the larger ranges keep moving over the range half of the year. They go with extra horses, covered wagons, cook tents and a branding pen, and a movable corral. There is a boss or captain. His word is law. Every day bunches of cattle are driven in from the ranges and shut in the movable corral. There is seldom any roping or lariat-throwing, as of old. That may injure a calf or a cow and reduce its value. Men are hired nowadays to do nothing but operate the branding pen. The writer saw recently one of these business-like outfits at work on the Aztec cattle company's range in Navajo county. There was none of the wild cowboy yelling and whooping of a decade ago as the cattle were driven. Indeed, not one of the cowboys wore the regulation buckskin suit, with a brace of pistols at his waist, as of yore. Hardly a person spoke. The boss rode slowly about like a captain, seeing that the time was lost and no animals were separated and driven into different corrals. From each corral a narrow board passage-way led to a still narrower arrangement, constituting the branding box. Several men in the corral, armed with long, blunt poles, drove the cows and calves in single file through the passage-way. At the farther end the animals, one by one, were forced into the branding box. A man stood without and at one side with a long wooden lever in his hands. He watched the cattle as they emerged into the box. When each animal was well in he suddenly pushed the lever down the movable side of the box closed in upon the beast and it was held fast and tight without injury. In a trice the brander snatched one of the several branding irons from the fire and pressed the heated end against the side of the animal. There was a little smoke and a smell of burning hair. The beast gave a convulsive outcry but the brand—a huge "A. C."—was charred in the hair and flesh. The lever was raised, the box widened and the poor brute darted out into another corral.

So the branding went on for hours incessantly. The boss said that by working two branding boxes 500 cattle could be branded a day. There had been over 400 branded in a day by the use of only one box. Twice a year—in spring and fall—the animals are cor-

raled on up-to-date ranges. In the fall the beef cattle are separated from the herd and calves missed in the spring are branded. In the spring all the calves are branded while they are with the cows. There is thus less chance of losing mavericks to cattlemen. A maverick, by the way, is a calf that has grown so large that it has separated from the mother—usually when a year old—and has no brand upon it by which its owner may be identified. A law of the ranges is that horses, cattle, dogs or sheep found unbranded are the acknowledged property of the finder. Hundreds of cowboys have become well-to-do cattlemen and horsemen by finding and branding calves and colts that have wandered away from the herds and escaped the branding iron. Many a man, too, has been hanged or shot by angry cattlemen because he was not over-careful to identify a brand on a steer, a mule or a horse in his zeal to get rich by claiming strays.

The modern cowboys are these days hired quite as much for memory and business sense as for their ability to endure days of long rough riding, to drive a bunch of cattle rapidly and safely, and to check cattle stampedes. The cowboys do peculiarly interesting work when they drive consignments of cattle to the stockyards in Kansas City and Chicago. In this day of specialists there has been evolved a class of cowboy specialists. Now the cowboys who know the greatest number of brands have the best pay. The Aztec Cattle company has 14 of what are known as first-class cowboys. They draw \$10 a month more than the others. Some of them go east with every trainload of cattle. Some of them know at a glance the owner of every animal among the thousands of cattle being over 400 different brands in the stockyards at Chicago or Kansas City. One young fellow, a Scotchman, knows the brands of about 600 different brands and individuals in the stockyards. These brands are varied in shape and size, ranging from a single alphabetical letter to the size of a postal card to full length horse-crow stripes on the poor beast's back. Some cattlemen have as many as five letters branded in the side. Scores of brands are literally hieroglyphics. Some have Arabic figures and others Roman. A great many have adopted banjos, dogs, horses, hearts, crescents and various geometrical forms as their brands. Over 600 separate and distinct brands are registered at the stockyards in Chicago.

When a cattelman or a cattle company in the territories ships cattle to market a cowboy must go along to see that the animals are watered and fed two or three times a day en route. Improved cattle cars easily permit this act of humanity, and the United States laws demand it. At every stop of the train the cowboys get out of the caboose and, with long poles, prod to their feet the cattle that are on their knees or sides and likely to be trampled to death. The laws demand that every 24 hours en route the beasts shall be freed from confinement and rest in a cattle yard at some railroad station. On the Santa Fe railroad the rest stations are at Albuquerque, N. M., La Junta, Colo., Dodge City and Newton, Kan., and at Kansas City, Mo. Often as many as 7,000 cattle are on the way at one time on a single railroad in the west, and as many as 50 different brands of cattle are represented on the train. It is common that a frisky steer or vaunting cow leaps or bounds from its matts in the transfer to and from the cars. The work of loading and unloading must be done rapidly and so there is some mixing of cattle bearing different brands on almost every trip to market. When the brutes reach the great stockyards at Kansas City or Chicago, thousands of other cattle are there. More mixups by impetuous animals follow. When the sale takes place a day or later the stockyard employees and the cowboys who have brought the animals there each keep tally of the head of cattle bearing the brands as they pass out of the chute. Then it is that a consignment of steers or cows may show a shortage or an excess. If the tally

have been cut away and blood begins to spurt the tar is dabbed over the wound. The best staggers to its feet and runs madly away. Once in a while a fractious nervous cow will die from the loss of blood and the shock. The time spent in dehorning is not over ten minutes. A range of five men will dehorn 250 cattle in a day. Carload lots of cattle horns are shipped from New Mexico and Arizona frequently. Button, glue, comb and brush factories are the main buyers of cattle horns. The shippers pay the cattlemen from 2 to 2 1/2 cents a pound for them, "free on board."

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Dyspepsia Cured. Shiloh's Vitalizer immediately relieves Sour Stomach, Coming up of Food Distress, and is the great kidney and liver remedy. Sold by Neiden-Judson and other druggists.

U. S. Baking Powder is the Favorite, because it is cheap and good. Price, 5 oz. can, 10c; 8 oz. can at 15c; 16 oz. can at 25c.

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Bad Breath. I have been using CASCARETS and as a mild and effective laxative they are simply wonderful. My digestion and I were both better and my stomach and bowels were very healthy. After taking a few boxes of Cascarets I have tried other laxatives. They are a great help in the family. Write for a sample. 112 Hiram House St., Cincinnati, Ohio.

Cascarets. Pleasant, Palatable, Potent, Taste Good, Do Good, Never Sicken, Weaken or Grip. 25c. 50c. 10c. Solely Bamberger Coal Co., Cincinnati, Ohio.

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On Monday morning we place on sale the most Stupendous Bargains ever offered here in the way of Winter Underwear. This Gigantic Underwear Sale will Eclipse All Previous Attempts Made Here. This wear is direct from the Manufacturer, bought at a price that will enable us to sell it at less than other merchants can buy it at.

LOT No. 1. 1500 suits men's extra heavy Derby ribbed, fleece-lined shirts and drawers, superior finished and elegantly faced in Ecu and Tan. They are worth \$2.00 per suit if they are worth a penny.

LOT No. 2. 1200 Ladies' heavy fleece-lined Vests and Pants, made of the finest Egyptian Cotton, well finished and worth 35 cents per garment of anybody's money. We price them to you at

LOT No. 3. 600 Ladies' fleece-lined, Jersey ribbed, Union Suits, perfect in fit, easy and comfortable. If you could buy their equal elsewhere for 75c you would be getting a snap. They all go at

Per Suit, 98c.

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45c Per Suit.

These goods are not going to linger with us, and we anticipate that Wednesday will be their last day with us, so we advise our patrons to get in early and take advantage of them.

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SOLO SPIRO, General Manager.